

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

RUSSELL SCOTT CREIGHBAUM
AND KRISTY MICHELE
CREIGHBAUM

CIVIL ACTION NO.: _____

VERSUS

JUDGE _____

STEPHEN PHILLIP MARVEL, SDR
TRUCKING, LLC, AND CHEROKEE
INSURANCE COMPANY

MAGISTRATE JUDGE

NOTICE OF REMOVAL

NOW COME Defendants, STEPHEN PHILLIP MARVEL (“Marvel”), SDR TRUCKING, L.L.C. (“SDR”), and CHEROKEE INSURANCE COMPANY (“Cherokee”), and file this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, hereby removing this matter from the First Judicial District Court for the Parish of Caddo, to the docket of this Honorable Court.

1.

Plaintiffs, RUSSELL SCOTT CREIGHBAUM and KRISTY MICHELE CREIGHBAUM, filed this action against Defendants in the First Judicial District Court for the Parish of Caddo, State of Louisiana, bearing Docket No. 593,964, captioned *Russell Scott Creighbaum and Kristy Michele Creighbaum vs. Stephen Phillip Marvel, SDR Trucking, L.L.C.*,

and Cherokee Insurance Company. See attached Exhibit A, a complete copy of the Petition for Damages.

2.

The State Court suit seeks recovery for bodily injuries and emotional injury to Russell Scott Creighbaum, Kristy Michele Creighbaum, and their children, Taylor Creighbaum and Alex Creighbaum, as a result of a July 15, 2015, motor vehicle accident in Caddo Parish, Louisiana. See Exhibit A, paras. 4-6; 7-10.

3.

Plaintiffs allege Defendant, Marvel, negligently operated a tractor-trailer rig, causing a collision and injury to Plaintiffs. See Exhibit A, para. 22.

4.

Plaintiff further alleges Marvel was employed by Defendant, SDR, and was in the course and scope of his employment with SDR at the time of the accident. See Exhibit A, para. 23.

5.

Plaintiff alleges Cherokee issued a policy of automobile liability insurance which was in effect at the time of the accident covering Marvel and the SDR vehicle involved. See Exhibit A, para. 24.

6.

Based upon the medical records, claimed past and future medical bills, and claims of mental anguish asserted by Plaintiffs, Plaintiffs are claiming medical expenses and general damages from the accident in excess of \$263,000.00. See Exhibit A, para. 27.

7.

Diversity jurisdiction lies in this matter pursuant to 28 U.S.C. § 1332 for the following reasons:

- a. Plaintiffs are citizens and domiciliaries of the State of Louisiana;
- b. Cherokee Insurance Company is a foreign insurance company incorporated in and maintaining its principal place of business in the State of Michigan;
- c. SDR Trucking, L.L.C. is a foreign limited liability company organized under the laws of the State of Tennessee and maintaining its principal place of business in the State of Tennessee, with its two members, Daniel Horvath and Shannon Horvath, being citizens and domiciliaries of Shelby County, Tennessee;
- d. Steven Phillip Marvel is a major domiciliary and citizen of the State of Arkansas; and
- e. In light of the medical treatment and mental anguish alleged by Plaintiffs, the matter in controversy exceeds \$75,000.00, exclusive of interest and costs.

8.

Removal of this matter is timely pursuant to 28 U.S.C. § 1446(b) in that the Petition for Damages was filed on July 8, 2016, and Defendants, Marvel, SDR and Cherokee, hereby waive service of the Citation and Petition.

9.

Thus this notice is timely filed pursuant to the provisions of 28 U.S.C. § 1446(b).

10.

Attached as Exhibit B is a complete copy of the entire suit record of the State Court proceeding, as evidenced by the seal of Mike Spence, Clerk of Court of the First Judicial District Court for Caddo Parish, pursuant to U.S.C. § 1446(a). The record includes all pleadings filed in the record thus far.

11.

Venue is proper in this Honorable Court pursuant to 28 U.S.C. § 1446(a) because the First Judicial District Court for the Parish of Caddo is located within the Western District of Louisiana.

WHEREFORE, Defendants, Cherokee Insurance Company, SDR Trucking, L.L.C., and Steven Phillip Marvell, pray this Notice of Removal be deemed good and sufficient, and that this matter be accepted onto this Honorable Court's docket.

Respectfully submitted,

DAVENPORT, FILES & KELLY, L.L.P.
1509 Lamy Lane
P. O. Drawer 4787
Monroe, Louisiana 71211-4787
Telephone: (318) 387-6453
Facsimile: (318) 323-6533
ATTORNEYS FOR DEFENDANTS, CHEROKEE
INSURANCE COMPANY, SDR TRUCKING,
L.L.C. and STEVEN PHILLIP MARVEL

BY s/M. Shane Craighead
M. Shane Craighead - #21541
Lara A. Lane - #28115
Justin A. Wooley - #36734

CERTIFICATE

I hereby certify that a copy of the above and foregoing pleading has been served upon all counsel of record by placing the same in the United States mail, properly addressed and postage prepaid and/or through the Court's ECF system which may send a notice of electronic filing to counsel;

SO CERTIFIED this 21st day of July, 2016.

s/M. Shane Craighead
OF COUNSEL